
APPENDIX A

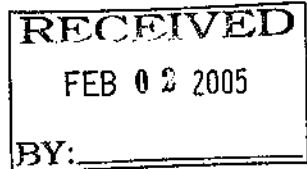
AGENCY CONSULTATION LETTERS



DEPARTMENT OF THE ARMY
ALBUQUERQUE DISTRICT, CORPS OF ENGINEERS
4101 JEFFERSON PLAZA NE
ALBUQUERQUE NM 87109-3435

February 1, 2005

Operations Division
Regulatory Branch



Mr. Eric Johnson
Marron and Associates, Inc.
7511 Fourth Street NW
Albuquerque, NM 87107

Dear Mr. Johnson:

This replies to your November 29, 2004, letter requesting a Section 404 jurisdictional determination for waters of the United States for the proposed rockfall protection site near Rio Grande near Pilar, Taos County, New Mexico. We have assigned Action No. 2004 00520 to this request.

We have evaluated the information you provided and concur with your findings of no waters of the United States within the project site. An Army Section 404 permit will not be required for this project. A brochure describing the Corps regulatory program is enclosed for your information.

A Department of the Army permit may be required for the discharge of dredged or fill material into these waters. Please notify this office if the project plans change and require the placement of dredge or fill material into waters of the US. If you have any questions about this determination or permit requirements, please feel free to contact me at (505) 342-3279 or by email at ed.l.paulsgrove@usace.army.mil.

Sincerely,

A handwritten signature in dark ink, appearing to read "Ed Paulsgrove".
Edward L. Paulsgrove
Regulatory Project Manager

Enclosure

Caring for Our Nation's Waters

U.S. Army Corps of Engineers Regulatory Program

Water is one of our nation's most valuable resources. It is becoming increasingly important that we protect the quality of our inland waters and wetlands for the use and benefit of future generations.

This brochure discusses the regulatory program of the U.S. Army Corps of Engineers: what it is, how it began, how it may affect you and what you as a concerned citizen can do to help.

If you are planning work in an arroyo, river, stream, or wetland, a Corps permit (Section 10 or Section 404) may be required.

The program provides for the consideration of all concerns of the public -- environmental, social and economic -- in the Corps' decision-making process to either issue or deny permits. As part of its responsibility to protect water quality, the Corps of Engineers Section 404 permit program extends to many areas that were not regulated prior to the Clean Water Act.

The purpose of the Section 404 program is to insure that the biological and chemical quality of our nation's waters is protected from irresponsible and unregulated discharges of dredged or fill material that could permanently alter or destroy these valuable resources.

You are urged to understand and support this program.

Corps of Engineers Involvement

The Corps' permit program is not new. When it began in 1886, its purpose was principally to avoid obstructions in navigable waters. In response to changing environmental, social and economic conditions, the scope has been broadened. Sections 9 and 10 of the River and Harbor Act of 1899 were established to regulate dams, dikes, and obstruction or alteration of navigable waters of the United States.

The Corps of Engineers regulatory function was expanded when Congress passed the Federal Water Pollution Control Act Amendments of 1972. Section 404 of the Act established a permit program to be administered by the Corps of Engineers to regulate the discharge of dredged or fill material into waters of the United States. The Act, renamed the Clean Water Act, was further amended in 1977 to provide exemptions, general permits and program turnover to states having approved programs.

The Corps has published regulations in the Code of Federal Regulations (33 CFR, Parts 320-330) to administer these laws.

Activities Requiring Permits

A Corps permit is required if you plan to locate a structure or discharge dredged or fill material in waters or navigable waters of the United States. This information is directed to those individuals, companies, corporations, and government agencies planning construction activities in a river, stream, lake or wetland within the jurisdiction of the Corps of Engineers.

Examples of regulated activities are materials placed in a waterway or wetland for any purpose including: commercial, industrial or recreational construction; roadfills and causeways where portions of the construction are in waters or wetlands; dams and dikes; and protection devices such as levees, groins, riprap and other bank stabilization.

Waters of the United States

Waters of the United States are administratively defined as (1) the traditional "navigable waters of the United States" including adjacent wetlands; (2) all interstate waters including interstate wetlands; (3) all other waters such as intrastate lakes, rivers, streams (including intermittent streams), prairie potholes, mudflats, playa lakes, etc.; (4) all impoundments of these waters; (5) tributaries of the above listed waters; and (6) wetlands adjacent to the above waters. Section 404 permits are required for construction activities in these waters.

Navigable waters are defined as waters that have been used in the past, are now used or susceptible to use as a means to transport interstate or foreign commerce up to the head of navigation. Section 10 and/or Section 404 permits are required for construction activities in these waters.

"Wetlands" are areas inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas.

The landward regulatory limit for non-tidal waters (in the absence of adjacent wetlands) is the ordinary high water mark. The ordinary high water mark is the line on the shores established by the fluctuations of water and indicated by physical characteristics such as a clear, natural line impressed on the bank; shelving; changes in the character of the soil; destruction of terrestrial vegetation; the presence of litter and debris; or other appropriate means that consider the characteristics of the surrounding areas.

Exempted Activities

There are a few activities which involve placement of fill in a waterway that are not subject to the Section 404 regulatory program. These exempted activities are briefly described here. The fill must not change the use of the water and the flow must not be impaired.

1. Normal farming, silviculture and ranching activities such as plowing, seeding cultivating, minor drainage and harvesting.
2. Maintenance or emergency repair of a currently serviceable structure such as dams, riprap, abutments, and levees. The original design may not be changed.
3. Maintenance or construction of stock ponds or irrigation ditches. Maintenance (not construction) of drainage ditches. Discharges associated with irrigation facilities are included.
4. Construction of temporary sedimentation basins at construction sites if fill material is not placed in waters of the United States.
5. Activities for which a state has an approved program under Section 208 of the Clean Water Act for non-point pollution sources.
6. Construction or maintenance of farm roads, forest roads or temporary mining roads. Best management practices must be followed to reduce flow pattern impairment and aquatic impacts (see regulations for more information).

Regional Permits

Regional permits are issued by the District Engineer for a general category of fill activities when (1) the activities are similar in nature and cause minimal environmental impact (both individually and cumulatively), and (2) the regional permit reduces duplication of regulatory control by State and Federal agencies.

Contact the Albuquerque District Corps of Engineers for information regarding regional permits in this area.

Individual Permits

Upon receipt of your application for a Section 404 permit, a public notice is issued to all known interested persons.

Historical/archeological impacts and effects on endangered species and critical habitat are reviewed. An environmental assessment is prepared to further evaluate the project's impact. Water quality certification is requested from the appropriate state, federal, or tribal agency.

Comments are received from interested individuals, groups, and government agencies. A public hearing may be held to acquire information and allow the public an opportunity to present their views.

In evaluating a permit application, the Corps of Engineers thoroughly analyzes the impacts of the proposed activity on the public interest.

Consideration is given to many factors, including: conservation, economics, aesthetics, general environmental concerns, wetlands, cultural values, fish and wildlife values, flood hazards, flood plain values, land use, navigation, shoreline erosion, recreation, water supply and conservation, water quality, energy needs, safety, food production, and, in general, the needs and welfare of the people. Individual and cumulative impacts are evaluated.

The decision to issue a permit is based on the benefits which may accrue from the proposed project. Benefits are weighed against foreseeable detriments, and a permit is issued only when its issuance is found to be in the public interest.

After evaluating the above considerations, the District Engineer makes the final decision to issue or deny the permit.

Processing time usually takes less than 120 days unless a public hearing is required or an environmental impact statement must be prepared.

Pre-Application Consultation

You are encouraged to contact the Albuquerque District Corps of Engineers for proposed work in waters in this jurisdictional area.

Exemptions, nationwide, regional and individual permit requirements will be reviewed. By discussing all information prior to application submittal, your application will be processed more efficiently.

An official determination as to the need for a Department of the Army permit will be provided on request.

Application for an Individual Permit

An individual Section 404 permit will be required for placement of dredged or fill material in waters of the United States if the project is not exempted from the Section 404 program and does not fall under one of the nationwide or regional permits.

If an individual permit is required, an application form should be completed. This application is available from the Corps of Engineers. Information needed includes (1) drawings (size 8½" X 11") sufficient for others to understand your project; (2) location, purpose, types and quantities of fills, and intended use; (3) expected start and completion dates; (4) names and addresses of adjoining landowners; and (5) location and dimensions of adjacent structures.

Nationwide Permits

A nationwide permit is a form of general permit authorizing a category of activities throughout the nation. These permits are valid only if their terms and conditions are met. If the conditions cannot be met, a regional or individual permit will be required.

Many of the nationwide permits require **Notification** to the District Engineer prior to use. **Regional conditions** have been added within each state and are available from the Regulatory Office or on our web page. In many cases, individual **water quality certification** must be obtained pursuant to General Condition No. 9 of the nationwide permits. A water quality certification information sheet is available.

A list of available nationwide permits and conditions is provided below. Summaries of the nationwide permits are available from the Regulatory Office or on our web page.

1. Aids to Navigation
2. Structures in Artificial Canals
3. Maintenance and Attraction Devices and Activities
4. Fish and Wildlife Harvesting, Enhancement, and Scientific Measurement Devices
5. Survey Activities
6. Outfall Structures and Maintenance
7. Oil and Gas Structures
8. Structures in Fleet and Anchorage Areas
9. Mooring Buoys
10. Temporary Recreational Structures
11. Utility Line Activities
12. Bank Stabilization
13. Linear Transportation Projects
14. U.S. Coast Guard Approved Bridges
15. Return Water from Upland Contained Disposal Areas
16. Hydropower Projects
17. Minor Discharges
18. Minor Dredging
19. Oil Spill Cleanup
20. Surface Coal Mining Activities
21. Removal of Vessels
22. Approved Categorical Exclusions
23. State Administered Section 404 Programs
24. Structural Discharges
25. [Reserved]

27. Stream and Wetland Restoration Activities
28. Modifications of Existing Marinas
29. Single-Family Housing
30. Moist Soil Management for Wildlife
31. Maintenance of Existing Flood Control Projects
32. Completed Enforcement Actions
33. Temporary Construction, Access and Dewatering
34. Cranberry Production Activities
35. Maintenance Dredging of Existing Basins
36. Boat Ramps
37. Emergency Watershed Protection and Rehabilitation
38. Cleanup of Hazardous and Toxic Waste
39. Residential, Commercial, and Institutional Developments
40. Agricultural Activities
41. Reshaping Existing Drainage Ditches
42. Recreational Facilities
43. Stormwater Management Facilities
44. Mining Activities

Nationwide Permit General Conditions

1. Navigation
2. Proper Maintenance
3. Soil Erosion and Sediment Controls
4. Aquatic Life Movements
5. Equipment
6. Regional and Case-by-Case Conditions
7. Wild and Scenic Rivers
8. Tribal Rights
9. Water Quality
10. Coastal Zone Management
11. Endangered Species
12. Historic Properties
13. Notification
14. Compliance Certification
15. Use of Multiple Nationwide Permits
16. Water Supply Intakes
17. Shellfish Beds
18. Suitable Material
19. Mitigation
20. Spawning Areas
21. Management of Water Flows
22. Adverse Effects from Impoundments
23. Waterfowl Breeding Areas
24. Removal of Temporary Fills

25. Designated Critical Resource Waters
26. Fills within 100-Year Floodplains
27. Construction Period

Further Information about Nationwide Permits

1. The Corps is authorized to determine if an activity complies with the terms and conditions of a nationwide permit.
2. Use of a nationwide permit does not obviate the need to obtain other federal, state or local authorizations required by law.
3. Nationwide permits do not grant any property rights or exclusive privileges.
4. Nationwide permits do not authorize any injury to the property or rights of others.
5. Nationwide permits do not authorize interference with any existing or proposed federal project.

Nationwide permit conditions are periodically revised. Please call or write for a determination and for a summary of current nationwide permit conditions.

Section 10 River and Harbor Act of 1899

Structures or work affecting navigable waters of the United States are regulated under Section 10 of the River and Harbor Act of 1899. The law applies to all structures, from small recreational docks to large commercial structures, and includes any dredging or excavation, bank protection, overhead powerlines or other work.

Even structures or work outside the limits defined for navigable waters of the United States could require a Section 10 permit if the structure or work effects the course, location or condition of the water body in such a manner as to impact the navigable capacity of the water body.

Navigable waters within the Albuquerque District include Navajo Reservoir and the Rio Grande along the international boundary. The Corps of Engineers will provide more information and an application form upon request.

You Can Help

The understanding and support of the American people is vital to the success of this program. To protect our nation's water resources and assure their use and enjoyment of future generations, we must all join this vital effort. We ask your help in "passing the word" to others concerning the permit requirements outlined in this brochure and solicit your views and comments on better ways of attaining the goals of this program. Your comments, questions, and suggestions should be directed to the addresses in this brochure.

Mailing List

We maintain a mailing list of public and private people, organizations, and agencies interested in the Corps of Engineers regulatory program. We distribute notifications of changes to the regulatory program and public notices about individual permit projects electronically and by postcard. If you would like to receive these notifications, please send your name, e-mail address and area of interest (e.g., county, counties, or state) to the Albuquerque office listed below. You may e-mail your request to cespa-od-r@usace.army.mil. Alternatively, if you would like to receive notices by postcard, please provide a mailing address with your request. We periodically update the mailing list. If you do not respond to an update request, your name may be removed from the list.

For More Information

In New Mexico:
Albuquerque District Corps of Engineers
ATTN: Regulatory Branch
4101 Jefferson Plaza, NE
Albuquerque, New Mexico 87109-3435
Phone: (505) 342-3283

In northwestern New Mexico and
south central Colorado:
Durango Regulatory Office
278 Sawyer Drive, Suite 1
Durango, Colorado 81303-7995
Phone: (970) 375-9509

In southeastern Colorado:
Southern Colorado Regulatory Office
720 North Main Street, Room 205
Pueblo, Colorado 81003-3046
Phone: (719) 543-9459

In southern New Mexico and western Texas:
El Paso Regulatory Office
P.O. Box 6096
Ft. Bliss, Texas 79906-0096
Phone: (915) 568-1359

Please visit our website for more information:
<http://www.spa.usace.army.mil/reg/>

Version: March 2002



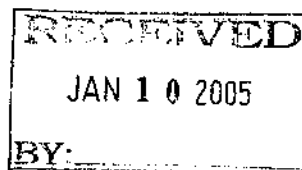
United States Department of the Interior

FISH AND WILDLIFE SERVICE
New Mexico Ecological Services Field Office
2105 Osuna NE
Albuquerque, New Mexico 87113
Phone: (505) 346-2525 Fax: (505) 346-2542

January 4, 2005

Cons. #2-22-05-I-0121

Mr. Eric Johnson
Marron and Associates, Inc.
7511 Fourth Street NW
Albuquerque, New Mexico 87107



Dear Mr. Johnson:

Thank you for your November 29, 2004, letter requesting information on threatened or endangered species or important wildlife habitats that could be affected by planned NM 68 Rockfall Project. The proposed project is the construction of rockfall protection systems consisting of rockfall fence, wire mesh, and/or concrete wall barriers on two segments of NM 68 in the Rio Grande Gorge. One segment is located at milepost (MP) 19.37 – 19.39 on New Mexico Department of Transportation right-of-way and private land in Rio Arriba County, New Mexico. The second segment is located at MP 27.29 – 27.85 on NMDOT right-of-way and Bureau of Land Management land in Taos County, New Mexico.

We have enclosed a current list of federally endangered, threatened, proposed, and candidate species, and species of concern that may be found in Rio Arriba and Taos Counties, New Mexico.¹ Under the Endangered Species Act, as amended (Act), it is the responsibility of the Federal action agency or its designated representative to determine if a proposed action "may affect" endangered, threatened, or proposed species, or designated critical habitat, and if so, to consult with us further. If your action area has suitable habitat for any of these species, we recommend that species-specific surveys be conducted during the flowering season for plants and at the appropriate time for wildlife to evaluate any possible project-related impacts. Please keep in mind that the scope of federally listed species compliance also includes any interrelated or interdependent project activities (e.g., equipment staging areas or offsite borrow material) and any indirect or cumulative effects.

Candidates and species of concern have no legal protection under the Act and are included in this document for planning purposes only. We monitor the status of these species. If significant declines are detected, these species could potentially be listed as endangered or threatened.

¹ Additional information about these species is available on the Internet at <http://nmrareplants.unm.edu>, <http://nmmhp.unm.edu/bisonnm/bisonquery.php>, and <http://ifw2es.fws.gov/endangeredspecies>.

Therefore, actions that may contribute to their decline should be avoided. We recommend that candidates and species of concern be included in your surveys.

With highway improvement and construction projects, we are particularly concerned with habitat fragmentation, the loss of connectivity for wildlife populations, and direct wildlife mortality. Ridges, draws, riparian areas, and arroyos are corridors frequently used by wildlife for movement and dispersal. When constructing or modifying highways, we recommend that structures be included at regular intervals to allow wildlife to safely pass from one side to the other. Such structures include large culverts, overpasses, underpasses, and tunnels. Because some species of wildlife will not move through confined openings, structures providing connectivity should be as large as possible. Bridges should be as tall as possible and the abutments as far apart as possible to allow safe passage under the bridge and along riparian corridors adjacent to the stream. Prior to removing old bridges, we recommend that you undertake surveys to determine if they are being used as bat roosts and when constructing or modifying bridges, we suggest that you design the undersides to provide bat roosting areas.

Under Executive Orders 11988 and 11990, Federal agencies are required to minimize the destruction, loss, or degradation of wetlands and floodplains, and preserve and enhance their natural and beneficial values. We recommend you contact the U.S. Army Corps of Engineers for permitting requirements under section 404 of the Clean Water Act if your proposed action could impact floodplains or wetlands. These habitats should be conserved through avoidance, or mitigated to ensure no net loss of wetlands function and value. For the construction of any new bridges, we would ask that you pay special attention to the effects of this type of structure in wetland areas.


The Migratory Bird Treaty Act (MBTA) prohibits the taking of migratory birds, nests, and eggs, except as permitted by the U.S. Fish and Wildlife Service. To minimize the likelihood of adverse impacts to all birds protected under the MBTA, we recommend construction activities occur outside the general migratory bird nesting season of March through August, or that areas proposed for construction during the nesting season be surveyed, and when occupied, avoided until nesting is complete.

We suggest you contact the New Mexico Department of Game and Fish, and the New Mexico Energy, Minerals, and Natural Resources Department, Forestry Division for information regarding fish, wildlife, and plants of State concern.

Thank you for your concern for endangered and threatened species and New Mexico's wildlife habitats. In future correspondence regarding this project, please refer to consultation # 2-22-05-I-0121. If you have any questions about the information in this letter, please contact Rawles Williams at the letterhead address or at (505) 761-4704.

Sincerely,



 Susan MacMullin
Field Supervisor

Enclosure

cc: (w/o enc)

Director, New Mexico Department of Game and Fish, Santa Fe, New Mexico

Director, New Mexico Energy, Minerals, and Natural Resources Department, Forestry
Division, Santa Fe, New Mexico

District Engineer, U.S. Army Corps of Engineers, Regulatory Branch, Albuquerque, New
Mexico

FEDERAL ENDANGERED, THREATENED,
PROPOSED, AND CANDIDATE SPECIES
AND SPECIES OF CONCERN WITHIN COUNTIES IN NEW MEXICO
Consultation Number 2-22-05-I-0121
January 4, 2005

Rio Arriba County

ENDANGERED

- Black-footed ferret (*Mustela nigripes*) *
- Interior least tern (*Sterna antillarum*)
- Southwestern willow flycatcher (*Empidonax traillii extimus*)
- Rio Grande silvery minnow (*Hybognathus amarus*) **

THREATENED

- Bald eagle (*Haliaeetus leucocephalus*)
- Mexican spotted owl (*Strix occidentalis lucida*) with critical habitat

CANDIDATE

- Yellow-billed cuckoo (*Coccyzus americanus*)
- Boreal western toad (*Bufo boreas boreas*)

SPECIES OF CONCERN

- Goat Peak pika (*Ochotona princeps nigrescens*)
- New Mexican meadow jumping mouse (*Zapus hudsonius luteus*)
- Townsend's big-eared bat (*Corynorhinus townsendii*)
- Southwestern otter (*Lutra canadensis sonora*)
- American peregrine falcon (*Falco peregrinus anatum*)
- Arctic peregrine falcon (*Falco peregrinus tundrius*)
- Baird's sparrow (*Ammodramus bairdii*)
- Black tern (*Chlidonias niger*)
- Mountain plover (*Charadrius montanus*)
- Northern goshawk (*Accipiter gentiles*)
- Rio Grande cutthroat trout (*Oncorhynchus clarki virginalis*)
- Rio Grande sucker (*Catostomus plebeius*)
- Roundtail chub (*Gila robusta*)
- Jemez Mountains salamander (*Plethodon neomexicanus*)
- New Mexico silverspot butterfly (*Speyeria nokomis nitocris*)
- Arizona willow (*Salix arizonica*)
- Ripley milk-vetch (*Astragalus ripleyi*)

Taos County

ENDANGERED

- Black-footed ferret (*Mustela nigripes*) *
- Southwestern willow flycatcher (*Empidonax traillii extimus*)

THREATENED

- Bald eagle (*Haliaeetus leucocephalus*)
- Mexican spotted owl (*Strix occidentalis lucida*) with critical habitat

CANDIDATE

- Yellow-billed cuckoo (*Coccyzus americanus*)

SPECIES OF CONCERN

- New Mexican meadow jumping mouse (*Zapus hudsonius luteus*)
- Townsend's big-eared bat (*Corynorhinus townsendii*)
- Southwestern otter (*Lutra canadensis sonora*)
- American peregrine falcon (*Falco peregrinus anatum*)
- Arctic peregrine falcon (*Falco peregrinus tundrius*)
- Baird's sparrow (*Ammodramus bairdii*)
- Mountain plover (*Charadrius montanus*)
- Northern goshawk (*Accipiter gentilis*)
- Western burrowing owl (*Athene cunicularia hypugea*)
- Rio Grande cutthroat trout (*Oncorhynchus clarki virginalis*)
- Rio Grande sucker (*Catostomus plebeius*)
- Cockerell's striate disc (snail) (*Discus shemeki cockerelli*)
- Sangre de Cristo peaclam (*Pisidium sanguinichristi*)
- New Mexico silverspot butterfly (*Speyeria nokomis nitocris*)
- Arizona willow (*Salix arizonica*)
- Ripley milk-vetch (*Astragalus ripleyi*)

Index

Endangered	=	Any species which is in danger of extinction throughout all or a significant portion of its range.
Threatened	=	Any species which is likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range.
Candidate	=	Candidate Species (taxa for which the Service has sufficient information to propose that they be added to list of endangered and threatened species, but the listing action has been precluded by other higher priority listing activities).
Proposed	=	any species of fish, wildlife or plant that is proposed in the Federal Register to be listed under section 4 of the Act.
Species of Concern	=	Taxa for which further biological research and field study are needed to resolve their conservation status <u>OR</u> are considered sensitive, rare, or declining on lists maintained by Natural Heritage Programs, State wildlife agencies, other Federal agencies, or professional/academic scientific societies. Species of Concern are included for planning purposes only.
*	=	Survey should be conducted if project involves impacts to prairie dog towns or complexes of 200-acres or more for the Gunnison's prairie dog (<i>Cynomys gunnisoni</i>) and/or 80-acres or more for any subspecies of Black-tailed prairie dog (<i>Cynomys ludovicianus</i>). A complex consists of two or more neighboring prairie dog towns within 4.3 miles (7 kilometers) of each other.
**	=	Extirpated in this county.



BILL RICHARDSON
GOVERNOR

State of New Mexico
ENVIRONMENT DEPARTMENT
Office of the Secretary
Harold Runnels Building
1190 St. Francis Drive, P.O. Box 26110
Santa Fe, New Mexico 87502-6110
Telephone (505) 827-2855



RON CURRY
SECRETARY

DERRITH WATCHMAN-MOORE
DEPUTY SECRETARY

December 16, 2004

Eric Johnson
Marron and Associates, Inc.
7511 Fourth Street NW
Albuquerque, NM 87107

FAX: (505) 897-7847

Dear Mr. Johnson:

RE: NM 68 ROCKFALL PROJECT

This transmits New Mexico Environment Department (NMED) staff comments concerning the above-referenced project.

Surface Water Quality

The U.S. Environmental Protection Agency (USEPA) requires National Pollutant Discharge Elimination System (NPDES) Construction General Permit (CGP) coverage for storm water discharges from construction projects (common plans of development) that will result in the disturbance (or re-disturbance) of one or more acres, including expansions, of total land area. Because this project appears to exceed one acre (including staging areas, etc.), it will require appropriate NPDES permit coverage prior to beginning construction (small, one – five acre, construction projects may be able to qualify for a waiver in lieu of permit coverage – see Appendix D in CGP).

Among other things, this permit requires that a Storm Water Pollution Prevention Plan (SWPPP) be prepared for the site and that appropriate Best Management Practices (BMPs) be installed and maintained both during and after construction to prevent, to the extent practicable, pollutants (primarily sediment, oil & grease and construction materials from construction sites) in storm water runoff from entering waters of the U.S. This permit also requires that permanent stabilization measures (revegetation, paving, etc.), and permanent storm water management measures (storm water detention/retention structures, velocity dissipation devices, etc.) be implemented post construction to minimize, in the long term, pollutants in storm water runoff from entering these waters. In addition, permittees must ensure that there is no increase in sediment yield and flow velocity from the construction site (both during and after construction) compared to pre-construction, undisturbed conditions (see Subpart 9.C.1 in CGP).

Eric Johnson
December 16, 2004
Page 2

You should also be aware that EPA requires that all "operators" (see Appendix A in the CGP) obtain NPDES permit coverage for construction projects. Generally, this means that at least two parties will require permit coverage. The owner(s)/developer(s) of this construction project who have operational control over project specifications (probably the New Mexico Department of Transportation, in this case), the general contractor who has day-to-day operational control of those activities at the site, which are necessary to ensure compliance with the storm water pollution prevention plan and other permit conditions, and possibly other "operators" will require appropriate NPDES permit coverage for this project.

The CGP was re-issued effective July 1, 2003 (see Federal Register/Vol. 68, No. 126/Tuesday, July 1, 2003; pg. 39087). The CGP, Notice of Intent (NOI), Fact Sheet, and Federal Register notice can be downloaded at: <http://epa.ciqlusa.com/npdes/stormwater/cgp.cfm>

We appreciate the opportunity to comment on this project.

Sincerely,



Gedi Cibas, Ph.D.
Environmental Impact Review Coordinator

NMED File No. 1991ER

DEPARTMENT OF PUBLIC SAFETY
NEW MEXICO STATE POLICE

Bill Richardson
Governor

John Denko Jr.
Cabinet Secretary

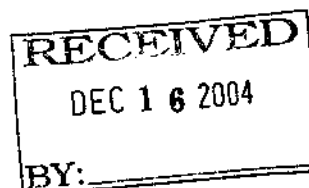


Carlos R. Maldonado
Chief / Deputy Secretary—Operations

BGen Annette L. Sobel
Deputy Secretary—Emergency Services

Roxanna M. Knight
Deputy Secretary—Administration

December 14, 2004



Marron and Associates, Inc. – Eric Johnson
7511 Fourth Street NW
Albuquerque, New Mexico 87107


Subject: Letter of Support for New Mexico 68 Rock Fall Project

Mr. Johnson,

We the New Mexico State Police-District Seven, support the Marron and Associates recommendation concerning the New Mexico 68 Rock Fall Project in the Embudo area. This area has and is continuing to be a safety concern not only for us, but also for all motorists utilizing this road. The continuing erosion is always a concern, which subsequently results in our officer being dispatched to the area where, rocks have been reported to of fallen. During heavy rain storms and heavy snowfall our officers patrol this area with anticipation that rocks will fall, causing accidents and potential injuries. Due to manpower shortages in this district, it would be comforting to know preventive measures have been taken to assist with saving a life.

I think all would agree that no value could be placed on a person's life; therefore, I would strongly support Alternative – A (Rock fall fence with wire mesh) as the protection system to be installed.

As Public Servants our goal is to provide quality service and the safest environment, for not only those that reside in the area, but for visitors as well.


Captain Gerald E. Anderson
Commander-District 07
New Mexico State Police

GEA:lg

Office of the Secretary 827-3370	Office of the Chief New Mexico State Police 827-9002	Office of Emergency Management 476-9600	Technical and Emergency Support 827-9133
Special Investigations 841-8053	Training and Recruiting 827-9251	Information Technology 827-9115	Motor Transportation 827-0321
			Support Services 827-9016

GOVERNOR
Bill Richardson



STATE OF NEW MEXICO
DEPARTMENT OF GAME & FISH

One Wildlife Way
Post Office Box 25112
Santa Fe, NM 87504
Phone: (505) 476-8008
Fax: (505) 476-8124

STATE GAME COMMISSION
Guy Riordan, Chairman
Albuquerque, NM

Alfredo Montoya, Vice-Chairman
Alcalde, NM

David Henderson
Santa Fe, NM

Jennifer Atchley Montoya
Las Cruces, NM

Peter Pino
Zia Pueblo, NM

Dr. Tom Arvas
Albuquerque, NM

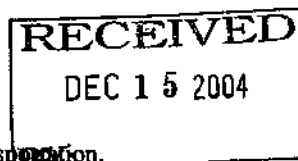
Leo Sims
Hobbs, NM

DIRECTOR AND SECRETARY
TO THE COMMISSION
Bruce C. Thompson

Visit our website at www.wildlife.state.nm.us
For basic information or to order free publications: 1-800-862-9310.

December 14, 2004

Eric Johnson
Marron and Associates Inc
7511 Fourth Street NW
Albuquerque, NM 87107



Re: NM 68 Rockfall Project – Bureau of Land Management and NM Dept. of Transportation.
NMGF No. 9776

Dear Mr. Johnson,

In response to your letter dated November 29, 2007, regarding the above referenced project, the Department of Game and Fish (Department) does not anticipate significant impacts to wildlife or sensitive habitats. For your information, we have enclosed a list of sensitive, threatened and endangered species that occur in Taos County.

For more information on listed and other species of concern, contact the following sources:

1. Species Accounts: <http://fwie.fw.vt.edu/states/nm.htm>
2. Species Searches: <http://nmnhp.unm.edu/bisonnm/bisonquery.php>
3. New Mexico Wildlife of Concern by Counties List:
http://www.wildlife.state.nm.us/conservation/share_with_wildlife/documents/speciesofconcern.pdf
4. Habitat Handbook Project Guidelines:
http://wildlife.state.nm.us/conservation/habitat_handbook/index.htm
5. For custom, site-specific database searches on plants and wildlife. Go to Data then to Free On-Line Data and follow the directions go to: <http://nmnhp.unm.edu>
6. New Mexico State Forestry Division (505-827-5830) or <http://nmrareplants.unm.edu/index.html> for state-listed plants
7. For the most current listing of federally listed species always check the U.S. Fish and Wildlife Service at (505-346-2525) or <http://ifw2es.fws.gov/EndangeredSpecies/lists/>.

Thank you for the opportunity to review and comment on your project. If you have any questions, please contact Mark Watson at (505) 476-8101 or mwatson@state.nm.us.

Sincerely,

Mark Watson

Janell Ward, Assistant Chief
Conservation Services Division

JW/ttd

xc: Susan MacMullin, New Mexico Ecological Services, USFWS
Leif Ahlm, NE Area Operations Chief, NMGF
Scott Draney, * Area Habitat Specialist, NMGF

New Mexico Species of Concern - Taos County

Page 1 of 2

Common Name.....	SCIENTIFIC NAME.....	FWS..	NM...	FS..	B.M..	NM...	FW
		ESA	WCA	R3	NM	Sen	SO
Rio Grande Cutthroat Trout	Oncorhynchus clarki virginalis	-	-	S	-	S M	S
Rio Grande Chub	Gila pandora	-	-	-	-	S	-
Flathead Chub	Platygobio gracilis	-	-	-	S	-	-
Rio Grande Sucker	Catostomus plebeius	-	-	S	-	-	S
Northern Leopard Frog	Rana pipiens	-	-	S	-	-	-
White-faced Ibis	Plegadis chihi	-	-	S	S	-	-
Bald Eagle	Haliaeetus leucocephalus	AD, T mg	T	S	-	-	-
Northern Goshawk	Accipiter gentilis	-	-	S	S	S	S
Swainson's Hawk	Buteo swainsoni	-	-	S	-	-	-
Ferruginous Hawk	Buteo regalis	-	-	S	S	-	-
American Peregrine Falcon	Falco peregrinus anatum	DM m	T	S	-	-	S
White-tailed Ptarmigan	Lagopus leucurus altipetens	-	E	S	-	-	-
Whooping Crane	Grus americana	EIPN, E mg	E	S	-	-	-
Mountain Plover	Charadrius montanus	PT	-	S	-	S	-
Yellow-billed Cuckoo	Coccyzus americanus occidentalis	C	-	S	-	S	-
Flammulated Owl	Otus flammeolus	-	-	S	-	-	-
Burrowing Owl	Athene cunicularia hypugaea	-	-	-	S	-	S
Mexican Spotted Owl	Strix occidentalis lucida	T hmg	-	S	-	S	-
Boreal Owl	Negolius funereus	-	T	S	-	-	-
White-eared Hummingbird	Hylocharis leucotis borealis	-	T	S	-	-	-
Belted Kingfisher	Ceryle alcyon	-	-	S	-	-	-
Southwestern Willow Flycatcher	Empidonax traillii eximius	E h	E	S	-	-	-
Loggerhead Shrike	Lanius ludovicianus	-	-	-	S	S	-
Gray Vireo	Vireo vicinior	-	T	S	-	-	-
Gray Catbird	Dumetella carolinensis ruficrissa	-	-	S	-	-	-
American Redstart	Setophaga ruticilla tricolora	-	-	S	-	-	-
Baird's Sparrow	Ammodramus bairdii	-	T	S	S	-	S
Western Small-footed Myotis Bat	Myotis ciliolabrum melanorhinus	-	-	-	S	S	-
Yuma Myotis Bat	Myotis yumanensis yumanensis	-	-	-	S	S	-
Little Brown Myotis Bat	Myotis lucifugus carissima	-	-	-	-	S	-
Occult Little Brown Myotis Bat	Myotis lucifugus occultus	-	-	S	S	S	-
Long-legged Myotis Bat	Myotis volans interior	-	-	-	S	S	-
Fringed Myotis Bat	Myotis thysanodes thysanodes	-	-	-	S	S	-
Long-eared Myotis Bat	Myotis evotis evotis	-	-	-	S	S	-
Pale Townsend's Big-eared Bat	Placotus townsendii pallascens	-	-	S	S	S	S
White-tailed Jack Rabbit	Lepus townsendii campanius	-	-	-	-	S	-
Yellow-bellied Marmot	Marmota flaviventris	-	-	-	-	S	-
Gunnison's Prairie Dog	Cynomys gunnisoni	-	-	-	-	S	-
Heather Vole	Phenacomys intermedius intermedius	-	-	-	-	S	-
New Mexican Jumping Mouse	Zapus hudsonius luteus	-	T	S	S	-	S
Red Fox	Vulpes vulpes	-	-	-	-	S	-
Ringtail	Bassariscus astutus	-	-	S	-	S	-
American Marten	Martes americana origenes	-	T	S	-	-	-
Southwestern River Otter	Lutra canadensis sonora	-	-	S	S	S	S
Rocky Mountain Bighorn Sheep	Ovis canadensis canadensis	-	-	S	-	M	-
Sangre De Cristo Peacocks	Pisidium sanguinichristi	(g)	T	S	S	n	S
Cockerell's Striate Disc Snail	Discus shimaki cockerelli	-	-	-	S	S	S
Blue-black Silverspot Butterfly	Speyeria nokomis nokomis	-	-	-	-	-	S
Pearly Checkerspot Butterfly	Charidryas acaustus acaustus	-	-	-	-	-	S

New Mexico Species of Concern - Taos County Page 2 of 2

NATIVE SPECIES APPARENTLY NO LONGER OCCURRING IN TAOS COUNTY

American Eel	<i>Anguilla rostrata</i>	(extirpated from NM)
Gunnison-Sage Grouse	<i>Centrocercus minimus</i>	(extirpated from NM)
Gray Wolf	<i>Canis lupus</i>	
Grizzly Bear	<i>Ursus arctos</i>	(extirpated from NM)
Black-footed Ferret	<i>Mustela nigripes</i>	(extirpated from NM)
Mink	<i>Mustela vison anergumenes</i>	(extirpated from NM)
Lynx	<i>Lynx lynx</i>	(no specimens or verified records)
Wolverine	<i>Gulo gulo</i>	(no specimens or verified records)



United States Department of the Interior



Bureau of Land Management
Taos Field Office
226 Cruz Alta Road
Taos, New Mexico 87571
<http://www.nm.blm.gov>

IN REPLY REFER TO:
8351 (NM-020) P

September 29, 2004

Mr. Phillip Gallegos
NMDOT District V
PO Box 4127
Coronado Station
Santa Fe, NM 87502-4127

Re: Analysis Criteria for Wild and Scenic River, Visual Resource Management, and Lower Gorge Area of Critical Environmental Concern - NM Highway 68, MP 15 to MP 28 Rockfall Fence Proposal

Dear Mr. Gallegos,

The purpose of this letter is to provide the NM Department of Transportation with information to determine whether there is a need to go into Section 4(f). The above referenced proposal is located within a 'scenic' segment, designated in 1994, of a Wild and Scenic River. The project area runs through the following legal description: T23N, R9E, Sections; 23, 24, 26, 27, 34, T23N, R10E, Sections; 12, 14, 15, 19, 20, 21, 22, T23N, R11E, Sections; 5, 6, T24N, R11E, Section 32.

The Visual Resource Management objectives for this area are Class II, as designated in the 2000 Rio Grande Corridor Final Plan. The analysis criteria that BLM will use to make a decision regarding the proposal in relationship to these two resources will be the; Wild and Scenic River-Policy and Program Direction for Identification, Evaluation, and Management, Handbook 8351 and the Visual Resource Management (VRM) Handbooks 8431-1 and 8410-1.

Management direction for Wild and Scenic Rivers indicates that the outstandingly remarkable values for which the river was designated should be maintained. These are outlined in Appendix 3 of the 2000 Rio Grande Corridor Final Plan. Marron and Associates, the NEPA contractor who is working with the NMDOT, has a copy of these handbooks and the 2000 Rio Grande Corridor Final Plan.

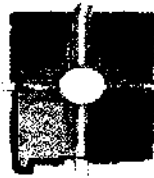
The direction in the VRM handbooks is to conduct a contrast rating to determine whether a project meets current management objectives. Basically, "Management activities may be seen but should not attract the attention of the casual observer. Any changes must repeat the basic elements of form, line, color, and texture found in the predominant natural features of the characteristic landscape" (BLM 1986). A contrast rating form, photo simulations, and an assessment of public sensitivity to visual quality is used as the analysis criteria.

The above referenced proposal is also located within the Lower Gorge Area of Critical Environmental Concern (ACEC). As stated in the 2000 Rio Grande Final Corridor Plan, the

Lower Gorge ACEC was established in recognition of the area's value for wildlife and fisheries habitat, riparian areas, scenic quality, watershed, and recreation. In the development of alternatives and analysis of environmental effects of the proposal, the proposal's effects on each of these resources should be considered and described in the environmental assessment.

Sincerely,

Sam DesGeorges
Taos Field Office Manager



NEW MEXICO DEPARTMENT OF
TRANSPORTATION

INTRA-DEPARTMENTAL CORRESPONDENCE

SUBJECT: CN 3941 HSP-TPS-051-1(83)25 **DATE:** January 27, 2005

TO: Phillip Gallegos P.E.
District 5 Technical Services

FROM: Kathryn Kretz, Manager
Environmental Geology Section

It is the understanding of this Section that the proposed scope of work for this project includes the installation of rock fall catchment fences, well off of the roadway prism. Given this scope of work and initial site assessment will not be required from this Section.

If you have any questions, please contact me at (505) 827-0705.

Xc: File